

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,  
v.

Case No. 1:91-CR-112-05

Hon. Richard Alan Enslen

HOWARD EUGENE McCULLY, JR.,

Defendant.

ORDER

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Defendant Howard Eugene McCully, Jr., who has been previously convicted of a marijuana conspiracy and had post-judgment relief motions denied both by this Court and the Sixth Circuit Court of Appeals, has filed a “Motion to Withdraw Voluntarily as Judge.” The Motion requests the undersigned disqualify himself pursuant to 28 U.S.C. § 455(a). Defendant says that past rulings display “personal bias, due to the weight given to incorrect assertions . . .” (McCully Decl., Sept. 20, 2005.) It is unclear to which past rulings Defendant is referring. The last two rulings of this Court simply enforced a procedural rule—requiring a party filing court documents to present his or her original signature on said documents. *See* W.D. Mich. L. Cr. R. 49.5. Said rulings do not prevent Defendant from filing court documents provided that he submit those documents containing his original signature. This was done, in part, for Defendant’s own protection to enable the verification of the signature of the person presenting court documents.

Under 28 U.S.C. § 455 and *Liteky v. United States*, 510 U.S. 540, 548 (1994), a judge “shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” *Liteky*, 510 U.S. at 548 (quoting statute). This standard also generally views with disfavor

requests for disqualification prompted by charges of bias arising from judicial events. “[O]pinions formed by the judge [during litigation] . . . do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible.” *Id.* at 555. The orders at issue in this case do not meet the standard articulated in *Liteky*.

**THEREFORE, IT IS HEREBY ORDERED** that Defendant Howard Eugene McCully, Jr.’s Motion to Withdraw Voluntarily as Judge (Dkt. No. 217) is **DENIED**.

DATED in Kalamazoo, MI:  
October 12, 2005

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
SENIOR UNITED STATES DISTRICT JUDGE